

## REMARKS

Claims 1-20 are pending. Claims 1, 3, 12, 14, 15, and 17-20 are amended. No new matter has been added as a result of these amendments.

### Claim Rejections – 35 U.S.C. §102

Claims 1-15, 17, and 20 are rejected under 35 U.S.C. 102(e) as being allegedly anticipated by Jenkins et al. (US 2002/0188499), hereinafter "Jenkins."

As is well established, anticipation requires the presence of a single prior art reference to disclose each and every element of the claimed invention, arranged as in the claim. There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *Scripps Clinic & Research Found. v. Genentech Inc.*, 18 USPQ 2d 1001, 1010 (Fed. Cir. 1991).

Applicants respectfully assert that Jenkins fails to teach all of the claimed elements of Independent Claims 1, 17, and 20.

#### Claim 1:

Amended Claim 1 recites in part:

...using the processor to form a shipment plan by iteratively assigning a defined minimum size allotment of the parts to a customer location having a current highest priority and then reprioritizing the priorities of all locations and again assigning the defined minimum size allotment of the parts to a customer location having a new current highest priority, until one of all of the parts from inventory have been assigned and no customer location needs more of the parts assigned, wherein each current highest priority is determined from all locations for each iteration.

Applicants respectfully assert that Jenkins does not teach the formation of "a shipment plan by iteratively assigning a defined minimum size allotment of the parts to a customer location having a current highest priority and then reprioritizing the priorities of all locations and again assigning the defined minimum size allotment of the parts to a customer location having a new current highest priority, until one of all of the parts from inventory have been assigned and no customer location needs more of the parts assigned, wherein each current highest priority is determined from all locations for each iteration," as claimed in Claim 1.

As understood by Applicants, Jenkins discloses a system and method for resolving conflicts with respect to product availability (Abstract). In particular, Jenkins teaches that when the source stock is limited, the planning component 210 will be told which locations have priority over others when meeting demand, thereby meeting the demand of higher priority locations first (paragraph 0178). Jenkins further teaches that where there is coincident demand and not enough stock at the source to meet it, a fair-share allocation is used to determine the available inventory to allocation to each destination, thereby granting each destination a portion of the available stock (paragraphs 0205-0210). Jenkins teaches the use of demand list that contains all the locations sorted by location in alphabetical order (A-Z), then starting with the first location on the list, it uses the fair-share allocation to determine each location's portion of the available stock, followed by the creation of a subsequent list as needed with the sorting in reverse order (Z-A) for additional fair-share allocations (Paragraphs 209-210).

To the extent that Jenkins teaches location prioritization and the use of a fair-share allocation when available inventory is insufficient to meet demand, Applicants respectfully assert that Jenkins does not teach or suggest "a shipment plan by iteratively assigning a defined minimum size allotment of the parts to a customer location having a current highest priority and then reprioritizing the priorities of all locations and again assigning the defined minimum size allotment of the parts to a customer location having a new current highest priority, until one of all of the parts from inventory have been assigned and no customer location needs more of the parts assigned, wherein each current highest priority is determined from all locations for each iteration," as claimed in Claim 1. Applicants respectfully assert that rather than an iterative process of reprioritization after each allocation before the subsequent allocation, as claimed in Claim 1, Jenkins teaches that in using a fair-share allocation, each location is allocated a portion of the available inventory before reprioritizing for the next fair-share allocation, wherein each location is again allocated a portion of the remaining available inventory.

Applicants note that in paragraph 0272, Jenkins teaches that every time the automated load builder 310 adds a shipment to a load, it automatically recalculates priority values and resorts recommended shipments by priority. Applicants respectfully assert that Jenkins in paragraph 0272 is teaching the prioritization of shipments to optimize the load, with the priorities guiding the generation of better quality loads. Applicants respectfully assert that the iterative reprioritization of shipments does not teach or suggest the reprioritization of locations, as claimed in Claim 1.

Therefore, Applicants respectfully assert that embodiments as recited by Claim 1 are not rendered anticipated by Jenkins. Accordingly, Applicants respectfully assert that dependent Claims 2-16 are patentable by virtue of their dependency on an allowable base claim, as well as for their additional recited patentable features.

Claim 17:

Independent Claim 17 recites features similar to that of independent Claim 1 and is therefore patentable for at least the same or similar reasons as recited above.

Accordingly, Applicants respectfully assert that dependent Claims 18-19 are patentable by virtue of their dependency on an allowable base claim, as well as for their additional recited patentable features.

Claim 20:

Independent Claim 20 recites features similar to that of independent Claim 1 and is therefore patentable for at least the same or similar reasons as recited above.

For the above reasons, Applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. §102.

Claim Rejections – 35 U.S.C. §103

Claim 16 is rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Jenkins, in view of Chappel (US 7,236,940), hereinafter "Chappel."

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Jenkins, in view of Benda et al. (US 6,937,992), hereinafter "Benda."

As Chappel and Benda do not cure the deficiencies of Jenkins as described above, Applicants respectfully assert that Claims 16 and 18-19 are patentable by virtue of their dependency on allowable base claims, as well as for their additional recited patentable features.

For the above reasons, Applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. §103.

### CONCLUSION

In light of the above listed remarks, reconsideration of rejected Claims is requested. Based on the arguments presented above, it is respectfully submitted that Claims 1-20 overcome the rejections of record and, therefore, allowance of Claims 1-20 is earnestly solicited.

Please charge any additional fees that may be required to maintain pendency of the present application, or apply any credits to our PTO deposit account number: 50-4160.

Respectfully submitted,

MURABITO, HAO & BARNES LLP

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/Anthony C. Murabito/  
Anthony C. Murabito  
Registration No. 35,295

MURABITO, HAO & BARNES LLP  
Two North Market Street  
Third Floor  
San Jose, California 95113

(408) 938-9060 Voice  
(408) 938-9069 Facsimile